

**Remarks for Assembly Committee on Criminal Justice**

*Regarding AB 162 – Armed Resistance of Arrest*

By Representative Donald Friske

*April 11, 2007*

Thank you Chairman Kleefisch and Committee members. I appreciate your hearing today and scheduling this legislation for your consideration.

Under current law, when a law enforcement officer attempts to take an individual into custody and the individual resists arrest while being armed, that individual may be charged with a penalty enhancer from a Class A misdemeanor into a Class I felony (not more than \$10K and/or 3.5 years in prison/supervision)

The criteria to be convicted of the Class I felony, under current law follows:

- A) The defendant refused to comply with enforcement officer's attempt to take custody; **and**
- B) The defendant retreated or remained in a place or building; **and**
- C) The defendant attempted to thwart the enforcement officer's custody attempt (either threats or actions may apply here); **and**
- D) The defendant was **either**
  - a. armed with a dangerous weapon; **or**
  - b. threatened to use a dangerous weapon

In the 35<sup>th</sup> Assembly District, there was an incident where provision B) was called into question:  
The District Attorney attempted, and the Judge refused convict an individual with the Class I penalty enhanced charge:

During the incident, the suspect, armed with a rifle, would mirror the enforcement officer's movement back into a shadow. The distance between the two never increased or decreased. The judge ruled the suspect had not retreated because 1) the distance never increased; and 2) the shadow the suspect moved into was neither a place nor a building.

Common sense however tells us a piece of ground, in or out of the shadows, is a place. Common sense also tells us the suspect did violate the spirit of the law by moving in a manner to resist arrest by stepping away from the officer into the shadows.

- This bill deletes condition A)
  - Provision A) is inherently found within provision C) and is unnecessary
- This bill deletes condition B)
  - Provision B) is ambiguous and unnecessary given that a retreat is inherent within provision C)
- This bill retains condition C) and condition D) in the statute

Thank you for your consideration of this legislation. I look forward to working with you to ensure armed criminals are given measured forms of punishment and corrections for failing to comply with law enforcement officers.

# WISCONSIN PROFESSIONAL POLICE ASSOCIATION

Law Enforcement Employee Relations Division • Supervisory Officers Relations Division • Civilian Employee Relations Division

April 11, 2007

The Honorable Donald Friske  
Wisconsin State Assembly  
P. O. Box 8952  
Madison, WI 53708-8952

Dear Representative Friske:

Please accept this letter outlining the position of the Wisconsin Professional Police Association (WPPA) regarding Assembly Bill 162 relating to resisting arrest while armed with or threatening to use a dangerous weapon. As the state's largest law enforcement group, the WPPA is pleased to offer its unqualified support for this measure as it will significantly work to improve the level of officer safety for those who protect our communities.

In fulfilling their duty to keep our streets safe, the dedicated men and women of law enforcement frequently place their personal well-being in harm's way. As local governments across Wisconsin struggle to balance their need to provide public safety services against their fiscal constraints, it is becoming increasingly common for our members in the field to have fewer officers available to act in a backup capacity. As such, the level of risk confronted by officers can increase dramatically. For example, according to the Wisconsin Department of Justice, 901 officers were assaulted in 2004. This represented a more than 54 percent increase over the 576 officers that were assaulted in 2002.

The law ought to hold accountable those individuals who knowingly resist a law enforcement officer's attempt to be taken into custody, especially when that individual is either armed with a weapon or threatens the use of a weapon. The additional statutory criteria that require the defendant to refuse to comply with an officer's attempt to take custody, and that the defendant must also retreat or remain in a place or building make it more difficult to justifiably penalize individuals who act in such an egregious manner. In eliminating these overly rigid requirements, Assembly Bill 162 effectively sends the message that the law will hold these individuals accountable. If enacted into law, Assembly Bill 162 will enhance the level of officer safety in Wisconsin.

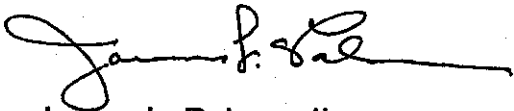
Thank you for the opportunity to provide this assessment. The WPPA looks forward to working with you to ensure this legislation's passage into law. With nearly 11,000

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members from more than 375 local associations, the WPPA works to protect and promote public safety, as well as the interests of the dedicated men and women who serve to provide it. Assembly Bill 162 effectively works towards that end, thus securing law enforcement's ability to keep Wisconsin a safe place to live, work and raise a family.

Respectfully,

THE WISCONSIN PROFESSIONAL POLICE ASSOCIATION

A handwritten signature in black ink, appearing to read "James L. Palmer, II". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

James L. Palmer, II  
Assistant Executive Director &  
Director of Governmental Affairs

JLP:jmu